



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-UFO

CERTIFIED MAIL # 7004-2510-0000-3548-8959
RETURN RECEIPT REQUESTED

Joe D. Jordan, President and Registered Agent
Jordan Contracting, Inc.
P.O. Box 668
Anaconda, MT 59711

JUN 13 2005

Re: UNDERGROUND INJECTION
CONTROL PROGRAM (UIC)
Proposed Order and Penalty Complaint
with Notice of Opportunity for Hearing

Dear Mr. Jordan:

The enclosed document is a Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing ("Order") alleging violations of the Safe Drinking Water Act ("SDWA"). Please have Jordan Contracting, Inc. ("Jordan Contracting") carefully read the Order soon, since it describes Jordan Contracting's rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Consolidated Rules of Practice that govern these proceedings, the required Public Notice associated with this Order and, in case Jordan Contracting meets the criteria, an information sheet about the Small Business Regulatory Fairness Act.

Jordan Contracting is required to take action within 30 calendar days of your receipt of this Order to avoid the possibility of having a default judgment entered against Jordan Contracting that could impose the penalty amount proposed in the Order.

Whether or not Jordan Contracting requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Jordan Contracting may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Jordan Contracting should contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.



Printed on Recycled Paper

Public Notice of EPA's Order and the opportunity to provide written comments on the Order is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the Order has a right to participate in the hearing.

If Jordan Contracting has technical questions relating to this matter, the person most knowledgeable on my staff is Carol L. Hutchings, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6485 or (303) 312-6485. For all legal questions, the person most knowledgeable on my staff is Jim Eppers at 1-800-227-8917 ext. 6893 or (303) 312-6893. Mrs. Hutchings and Mr. Eppers can also be reached at the following addresses:

Carol L. Hutchings (Mail Code 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466, or

Jim Eppers (Mail Code 8ENF-L)
Enforcement Attorney
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

We urge Jordan Contracting's prompt attention to this matter.

Sincerely,

for Eddie A. Sierra
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Proposed Administrative Order
and Opportunity to Request Hearing
40 C.F.R. Part 22
Public Notice
U.S. EPA Small Business Resources Fact Sheet

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. SDWA-08-2005-0027

2005 JUN 14 AM 11:04
FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:

Jordan Contracting, Inc.,
a Montana corporation,

Respondent.

)
)
) **PROPOSED ORDER AND PENALTY**
) **COMPLAINT WITH NOTICE OF**
) **OPPORTUNITY FOR HEARING**
)

INTRODUCTION

1. This civil administrative enforcement action is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or the Act). 42 U.S.C. 300h-2(c). The Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations (40 C.F.R.), and violations of the statute, permits, or EPA regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 C.F.R. part 22, a copy of which is enclosed..

2. The undersigned EPA official has been properly delegated the authority to issue this Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (complaint).

3. EPA alleges that Jordan Contracting, Inc. (Respondent) has violated the Act and proposes the assessment of a civil penalty and compliance measures, as more fully explained below.

NOTICE OF OPPORTUNITY FOR A HEARING

4. Respondent has the right to a public hearing before an administrative law judge to disagree with any factual allegation made by EPA in the complaint, the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have.

1 5. To disagree with the complaint and assert its right to a hearing, Respondent must file a
2 written answer (and one copy) with the Region 8 Hearing Clerk at the following address:

3
4 Region 8 Hearing Clerk
5 999 18th Street; Suite 300 (8RC)
6 Denver, Colorado 80202

7
8 within 30 calendar days of receiving this complaint. The answer must clearly admit, deny or
9 explain the factual allegations of the complaint, the grounds for any defense, the facts you may
10 dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of
11 Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN**
12 **ANSWER AND REQUEST FOR HEARING WITHIN 30 CALENDAR DAYS MAY**
13 **WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR**
14 **PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND**
15 **ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO**
16 **THE MAXIMUM AUTHORIZED BY THE ACT.**

17 18 **QUICK RESOLUTION**

19
20 6. Respondent may resolve this proceeding at any time by permanently closing the motor
21 vehicle waste portion of its [Class V] disposal system (well) and paying the penalty amount
22 proposed in the complaint. Such action to close the well and make payment need not contain
23 any response to, or admission of, the allegations in the complaint. Such action to close the well
24 and make payment constitutes a waiver of Respondent's right to contest the allegations and to
25 appeal the final order. See section 22.18 of the Consolidated Rules of Practice for a full
26 explanation of the quick resolution process.

27 28 **SETTLEMENT NEGOTIATIONS**

29
30 7. EPA encourages discussing whether cases can be settled through informal settlement
31 conferences. If you want to pursue the possibility of settling this matter, or have any other
32 questions, contact Jim Eppers, Senior Enforcement Attorney, at [1-800-227-8917; extension
33 6893 or 303-312-6893] or at the address identified in paragraph 26 herein. **Please note that**
34 **calling Mr. Eppers or requesting a settlement conference does NOT delay the running of**
35 **the 30 day period for filing an answer and requesting a hearing.**

36 37 **GENERAL ALLEGATIONS**

38
39 The following general allegations apply to all times relevant to this action, and to each
40 count of this complaint:

41
42 8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147
43 subpart BB, section 147.1351, EPA administers the Underground Injection Control (UIC)

1 program for Class I, III, IV, and V wells in the State of Montana. The effective date of the
2 program is June 25, 1984. The program requirements are located at 40 C.F.R. parts 124, 144,
3 146, 147, and 148.

4
5 9. On October 29, 2003, EPA received partially completed Shallow Injection Well
6 Inventory Request Form prepared by Joe Jordan, President of Jordan Contracting, Inc. The
7 Inventory Request Form identified a disposal system that includes floor drains in the
8 maintenance shop, that were accepting waste fluids. The form did not identify what type of
9 subsurface distribution system the floor drains were connected to. The form stated that the waste
10 did not go to a public sewer system, a surface discharge, a self-contained holding tank, a lagoon
11 or a pond.

12
13 10. On March 17, 2004, an EPA representative performed a routine inspection of the
14 Jordan Contracting, Inc. facility.

15
16 11. There was a large floor drain in the shop area that connected to a dry well. Motor
17 vehicle maintenance was performed in the shop area.

18
19 12. Motor vehicle waste disposal wells are defined at 40 C.F.R. §144.81(16) as follows:
20 "Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or
21 maintenance activities, such as an auto body repair shop, automotive repair shop, new and used
22 car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility
23 that does any vehicular repair work."

24
25 13. Respondent's disposal system, as identified in the inventory verification inspection in
26 paragraph 11 above, is classified as a "Class V Injection Well" as defined by 40 C.F.R. §144.6
27 and §146.5 and is a motor vehicle waste disposal well as defined by 40 C.F.R. §144.81(16).
28 Respondent is currently authorized by rule (40 C.F.R. §144.24) to operate the disposal system
29 described above. Respondent is therefore subject to applicable requirements of
30 40 C.F.R. §§ 124, 144 and 146.

31
32 14. On May 25, 2004, EPA mailed a UIC Shallow Injection Well Program letter to
33 Respondent. The letter was received by Respondent on May 28, 2004. The letter required the
34 Respondent to either:

35
36 a. submit a completed permit application by June 27, 2004, or

37
38 b. submit a plan for permanent closure of the motor vehicle waste disposal portion of the
39 system (including a written schedule and plan for alternative disposal of the waste) by
40 June 27, 2004 and permanently close that portion of the system by October 21, 2004.
41 Once the system was closed or retrofitted, documentation needed to be provided to EPA
42 including an as-built sketch of the drain system showing where the changes had been
43 made.

1 15. On July 2, 2004, EPA received a plan from Respondent for closure of the Class V
2 motor vehicle waste disposal system, proposing to install a self-contained holding tank for the
3 waste disposed of into the floor drain. The letter stated that Respondent would give EPA an
4 update on the progress of the installation in "the next 60 days."
5

6 16. On March 16, 2005, Respondent's Joe Jordan phoned EPA to discuss alternative
7 closure options (to the holding tank) for the disposal system. During this discussion, Mr. Jordan
8 stated that the system was currently still open. Mr. Jordan was informed that Respondent was in
9 non-compliance with the closure requirement since October 21, 2004. Mr. Jordan stated that he
10 was aware of the requirement and that the winter was not an excuse for not completing the work
11 since it had been mild and warm.
12

13 17. To date, EPA has not been notified by Respondent, verbally or in writing, that the
14 disposal system has been closed.
15

16 18. The Respondent, Jordan Contracting, Inc., as of April 1, 1988 and to the present, is a
17 corporation organized in and authorized to do business in the State of Montana.
18

19 19. Respondent is a "person" within the meaning of Section 1401(12) of the Act,
20 42 U.S.C. § 300f(12).
21

22 20. Respondent, at all times pertinent hereto, owned and operated an earthmoving &
23 construction facility that includes a maintenance shop where motor vehicle repair occurs and
24 where the disposal system described in paragraph 13, above, is located, at 101 Brown's Quarry
25 Road, Anaconda, Montana.
26

27 21. Beneath the disposal system are underground sources of drinking water (USDWs),
28 including but not limited to the shallow Northern Rocky Mountains Intermontane Basin aquifer.
29

30 COUNT 1

31
32 22. Respondent is in violation of 40 C.F.R. §144.12(a) and 40 C.F.R. §144.82(a)(1) by
33 owning, operating, and maintaining a Class V disposal facility which, through injection activity,
34 allows the movement of fluid containing any contaminant into underground sources of drinking
35 water, if the presence of that contaminant may cause a violation of any primary drinking water
36 regulation under 40 C.F.R. part 142 or may otherwise adversely affect the health of persons. The
37 Respondent's failure to discontinue the use of its Class V motor vehicle waste disposal system
38 may endanger or otherwise affect the health of persons. The duration of the Respondent's
39 violations is from March 17, 2004 to the present.
40
41
42
43

COUNT 2

23. Respondent is in violation of 40 C.F.R. §144.12(c)(1) and (2) and 40 C.F.R. §144.88(b) for failure to close or retrofit the Class V disposal system in a manner that would keep contaminants from entering a USDW. The duration of Respondent's violations for failure to close or retrofit the Class V disposal system is from October 21, 2004 to the present.

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

24. The Act authorizes the assessment of a civil penalty of up to \$32,500 per day, for each violation of the Act, 42 U.S.C. § 300h-2. The Act requires EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violation; any economic benefit or savings gained resulting from the violation; Respondent's history of such violations; Respondent's culpability for the violation; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. § 300h-2(c)(4)(B).

25. In light of the statutory factors and the specific facts of this case, **EPA proposes that a penalty of twelve thousand dollars (\$12,000.00) be assessed against Respondent for the violations alleged above, as explained below:**

Nature, Circumstances, Extent, and Gravity of Violations

Respondent owns the property and had the ability and means to comply by closing or retrofitting the waste disposal system to prevent movement of fluids to a USDW that may endanger the health or persons.

Prior Compliance History

This Order is the first enforcement actions EPA Region 8 has issued to Respondent requiring compliance with the applicable UIC regulations.

Good-Faith Efforts to Comply

Respondent had not made an effort to make changes to the disposal system by the required date and subsequently. Respondent's plan, provided to EPA on July 2, 2004 to close the disposal system by installing a holding tank, has gone unimplemented.

Degree of Culpability

Respondent should have been aware of all UIC requirements prior to EPA's first contact. On May 28, 2004, when Respondent received EPA's UIC Shallow Injection Well

1 Program letter (see paragraph 14, above), Respondent had actual notice of the
2 requirements.

3
4 Economic Benefit

5
6 An economic benefit was experienced by Respondent for failure to permit or close its
7 Class V well. The delayed cost of compliance, was, however, minimal.

8
9 Ability to Pay

10
11 EPA did not reduce the proposed penalty due to this factor, but will consider any new
12 information Respondent may present regarding Respondent's ability to pay the penalty
13 proposed in this complaint.

14
15 Other Matters that Justice may Require

16
17 No adjustments made regarding these factors at this time.

18
19 26. Additionally, Respondent shall comply with the requirements of 40 C.F.R.
20 §144.12(c)(1) and (2) and 40 C.F.R. §144.88(b), by permanently closing the motor vehicle waste
21 portion of the Class V disposal system pursuant to a plan submitted to and approved by EPA.
22 Respondent shall submit the plan to:

23
24 Carol Hutchings (8ENF-UFO)
25 UIC Program
26 USEPA Region 8
27 999 18th Street Suite 300
28 Denver, CO 80202-2466.

29
30 27. Respondent's payment of the penalty shall be made by money order or certified
31 check made payable to "Treasurer, United States of America" and mailed to the following
32 address:

33 EPA - Region 8
34 Regional Hearing Clerk
35 P.O. Box 360859
36 Pittsburgh, Pennsylvania 15251.
37
38
39
40
41
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43

1 A copy of said check shall be mailed to the following address:

2
3 Jim Eppers (8ENF-L)
4 Enforcement Attorney
5 U.S. EPA - Region 8
6 999 18th Street, Suite 300
7 Denver, Colorado 80202-2466.
8

9 28. As required by the Act, prior to the assessment of a civil penalty, EPA will provide
10 public notice of the proposed penalty, and reasonable opportunity for the people to comment on
11 the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 1423(c)(3)(B).
12

13 29. The Administrative Law Judge is not bound by EPA's penalty policy or the penalty
14 proposed by EPA, and may assess a penalty above the proposed amount, up to the \$32,500 per
15 day per violation authorized in the statute.
16

17 30. This Complaint does not constitute a waiver, suspension, or modification of the
18 requirements of any applicable provision of the Act or the UIC regulations implementing the Act,
19 which remain in full force and effect. Issuance of this Complaint is not an election by the EPA to
20 forego any civil or any criminal action otherwise authorized under the Act.
21

22
23 Issued this 13 day of June, 2005.
24

25
26 Eddie A. Sierra
27 for Carol Rushin
28 Assistant Regional Administrator
29 Office of Enforcement, Compliance,
30 and Environmental Justice
31 U.S. EPA, Region 8
32 999 18th Street, Suite 300
33 Denver, CO 80202-2466

Jordan Contracting, Inc.
Docket No. SDWA-08-2005-0027

CERTIFICATE OF SERVICE

I hereby certify that the original and one true copy of this Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing were hand carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Denver, Colorado, and that a true copy was sent Certified Mail; Return Receipt Requested to:

Joe Jordan, President and Registered Agent
Jordan Contracting, Inc.
Post Office Box 668
Anaconda, MT 59711.

Dated: June 14, 2005

By: Judith McTernan
Judith McTernan

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
PROPOSED ORDER AND PENALTY COMPLAINT
WITH NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
JORDAN CONTRACTING, INC.
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on an Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing(PO) [Docket No. SDWA-08-2005-0027] that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue against Jordan Contracting, Inc., 101 Brown's Quarry Road, Anaconda, Montana. The PO alleges violations of the Underground Injection Control (UIC) regulations and proposes remedies and monetary penalties for the alleged violations. The PO is issued under the UIC provisions of the Safe Drinking Water Act (SDWA) and the Act's implementing regulations. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW).

The EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the proposed remedies are appropriate. EPA will review any comments received on the PO, and will thereafter determine whether to modify or withdraw the PO or whether to modify the proposed penalty and/or compliance requirements.

BACKGROUND

Part C of the SDWA requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDW) are not endangered. Section 1421 of the SDWA requires EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of Montana; therefore, EPA administers the program in accordance with title 40 of the Code of Federal regulations (40 C.F.R.), Parts 124, 144, 146, 147, and 148.

The Class V disposal system which is the subject of this PO, owned and operated by Jordan Contracting, Inc., is located at 101 Brown's Quarry Road, Anaconda, Montana. A Class V injection well, pursuant to 40 C.F.R. 144.6 and 146.5, is a shallow injection well that injects fluids into or above a USDW. The well subject to this PO is of the subclass titled "motor vehicle waste disposal well," and is used to dispose of internal combustion engine repair and maintenance facility wastes.

The PO alleges that Jordan Contracting, Inc. is in violation of UIC regulations and is subject to appropriate penalties and fines for failing to: (a) prevent movement of fluids into a USDW that may cause a violation of a primary drinking water regulation under 40 C.F.R. Part 142 or otherwise adversely affect the health of persons and (b) to close or retrofit the Class V disposal system in a manner that would keep contaminants from entering a USDW. The PO proposes that EPA assess an administrative civil penalty in the amount twelve thousand dollars (\$12,000.00) and orders Jordan Contracting, Inc. to cease discharging into the present system immediately and submit to EPA a plan in writing to permanently close the discharge system.

PUBLIC COMMENTS

Written comments on the PO are encouraged and will be accepted at the address listed below for a period of thirty (30) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Jordan Contracting, Inc. will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Jordan Contracting, Inc. may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The Order, as proposed, and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call James H. Eppers, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6893 before visiting the EPA Region 8 offices.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
999 18th Street, Suite 500
Denver, Colorado 80202-2466

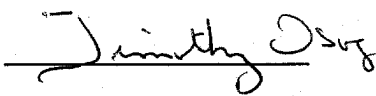
A copy of the PO will also be available for public review Monday-Friday between 8:00 a.m. and 4:00 p.m. at the Deer County Clerk/Recorders Office, 800 Main Street, Anaconda, Montana.

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Carol Lee Hutchings in the UIC program, EPA Region 8, at (303) 312-6485.

THE DECISION

EPA will review and consider all public comments received on the PO and will thereafter determine whether to modify or withdraw the PO or whether to modify the proposed penalty and/or compliance requirements. If the PO is revised, copies shall be provided to all parties and to all members of the public who have commented.

Date of Publication

for 

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-3466

develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input to the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. This rule does not impose any enforceable duties on these entities. Instead, it merely revises the procedural rules governing EPA's administrative enforcement proceedings.

F. Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the E.O. 13045 because it is not "economically significant" as defined in E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

G. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the

development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 22

Environment protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 30, 1999.

Carol M. Browner,
Administrator.

Therefore, 40 CFR part 22 is revised to read as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 Ex parte discussion of proceeding.
- 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

Subpart F—Appeals and Administrative Review

- 22.29 Appeal from or review of interlocutory orders or rulings.
- 22.30 Appeal from or review of initial decision.

1st Page Only



U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppicindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttn/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman

